IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7015 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

==========

JITENDRA ALIAS JITU ISHWARBHAIBHIL

Versus

COMMISSIONER OF POLICE

Appearance:

MS BANNA DATTA for MR SATISH R PATEL for Petitioner

MR PREMAL JOSHI, ASST. GOVT. PLEADER for Respondents

CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 11/02/2000

ORAL JUDGEMENT

The detenu has filed this petition under Article 226 of the Constitution of India, challenging the order of detention, vide Annexure 'A' dated 11.6.1999 passed by the Commissioner of Police, Ahmedabad City under the provisions of the Gujarat Prevention of Anti-Social Activities Act, 1985 [hereinafter referred to as the PASA].

2. The detaining authority has taken into consideration the grounds as mentioned in Annexure 'C' for detaining the detenu. It is found by the detaining authority that the detenu was dealing in illicit liquor, both foreign as well as country, with the help of others. It was also found that the detenu was beating innocent persons of the locality and the passer-by, and he was indulging in such activities in the past also.

3. In the instant case, it is not necessary to

consider the grounds of detention as it appears from the record that the representation forwarded by the petitioner has not been considered. Paragraph 20 of the petition reads as under :-

"The petitioner respectfully states that his advocate made presentation to the Home Minister by Regd. A.D. on 1.9.1999 it is duly received by the office, whether it is considered or not? ...."

4. Till this date, no material is placed on record to show whether the representation forwarded by the detenu was considered by the State Government or not. Neither the detaining authority nor the State has filed any reply to the detenu's aforesaid contention. A Division Bench of this Court in the case of DHANIBEN M TANDEL vs. UNION OF INDIA reported in 1997 (1) GLH 545 had an occasion to consider non-filing of returns in the matter of detention. The Division Bench has deprecated the method of showing files before the Court.

5. In the instant case, as the contentions raised by the petitioner has not been denied by the detaining authority or by the State, the continued detention of the detenu is required to be held as bad and illegal. Therefore, the detenu is ordered to be released forthwith if not required in any other case. Rule made absolute accordingly. No order as to costs.

csm./ ----------